

REMARKS

Applicants respectfully request reconsideration of the present application. No new matter has been added to the present application. Claims 1-36 were rejected in the Office Action. Claims 1, 8, 9, 13, 20, 21, 25, 32, and 33 have been amended, and claims 7, 19, and 31 have been canceled herein. Accordingly, claims 1-6, 8-18, 20-30, and 32-36 are pending herein. Claims 1-6, 8-18, 20-30, and 32-36, as amended, are believed to be in condition for allowance upon review and acceptance of these remarks. Favorable action is respectfully requested.

Amendments to the Claims

Claims 1, 8, 9, 13, 20, 21, 25, 32, and 33 have been amended herein. Care has been exercised to avoid the introduction of new matter. Support for the amendments to claims 1, 8, 9, 13, 20, 21, 25, 32, and 33 may be found in the Specification, for example, at paragraphs [0003], [0007], [0012], [0013], [0018], [0019], [0022], and FIG. 1

Rejections based on 35 U.S.C. § 102

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal Brothers v. Union Oil co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-4, 7-16, 19-28, and 31-36 have been rejected under 35 U.S.C. § 102(a) as being anticipated by the U.S. Patent Application Publication No. 2002/0169889 by Yang et al. (“Yang”). As Yang fails to describe, either expressly or inherently, each and every element

recited in the claims as amended herein, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system for monitoring a networked computer service for fault recovery. The networked computer service includes a set of features. When a fault condition for one or more features is detected in network status data, the system automatically generates control commands to dynamically adjust the set of features based on the fault condition. The set of features are dynamically adjusted by deactivating the one or more features having a fault condition while maintaining active features in the set of features to continue to provide the networked computer service. In other words, when a feature included in a set of features for a service experiences a fault condition, the feature is deactivated such that the remaining features may continue to operate without degradation from the deactivated feature such that the service may be provided to an end user.

In contrast to the invention of claim 1, Yang is directed to a zero-loss web service system. The system “ensures that the service of any user-submitted request suffers zero loss even in the case of a server failure or overload.” *Yang*, ¶ [0020] (emphasis added). To provide zero loss, when a server failure arises, processing continues on another server. *Id.*, ¶ [0025].

Accordingly, Yang is directed to a system that may maintain a service without any loss of the service. This is in direct contrast with the invention of claim 1 in which a failed feature of a service is intentionally deactivated to allow the other features to continue to operate without degradation. By definition, the invention of claim 1 is not a zero-loss system as discussed in Yang. Instead, in claim 1, when a fault condition is detected for a feature of the service, the feature is deactivated such that the feature is removed from the service. As such, Yang fails to describe, either expressly or inherently multiple features of claim 1, as amended.

herein. For instance, Yang fails to describe an “output interface, communicating with the control engine and the computer services network, the output interface communicating the control commands to the computer services network to dynamically adjust the set of features by deactivating the one or more features having a fault condition while maintaining active features in the set of features to continue to provide the networked computer service.”

As such, it is respectfully submitted that Yang fails to describe, either expressly or inherently, each and every element of independent claim 1, and, as such, claim 1 is not anticipated by Yang. Independent claims 13 and 25 include features similar to those discussed above with respect to claim 1, and, as such, claims 13 and 25 are not anticipated by Yang. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1, 13, and 25 under 35 U.S.C. § 102(a). Claims 1, 13, and 25 are believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 2-4, 8-12, 14-16, 20-24, 26-28, and 32-36 depend directly or indirectly from independent claims 1, 13, and 25. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(a) rejections of these claims as well.

Rejections based on 35 U.S.C. § 103(a)

Claims 5, 6, 17, 18, 29 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yang in view of U.S. Patent Application Publication No. 2002/0042823 to DeBettencourt et al (DeBettencourt). Applicants respectfully traverse the rejection of claims 5, 6, 17, 18, 29, and 30 as hereinafter set forth.

Claims 5, 6, 17, 18, 29, and 30 depend from independent claims 1, 13, and 25, and, as such, are patentable over the Yang reference for at least the reasons cited above based. DeBettencourt fails to cure the deficiencies of Yang with respect to its failure to teach or suggest

multiple limitations of the base claims, 1, 13, and 25. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) of claims 5, 6, 17, 18, 29 and 30.

CONCLUSION

For at least the reasons stated above, claims 1-6, 8-18, 20-30, and 32-36 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or jgolian@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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